THE HON'BLE SRI JUSTICE V.ESWARAIAH

W.P.NO.23844 OF 2005

Dt.8.11.2005

Between:

L.Gopal Goud

… Petitioner

And

The Prohibition and Excise Superintendent,

Mahabubnagar, Mahabubnagar District. … Respondent

ORDER:

Heard the learned counsel for the petitioner as well as the learned Government Pleader for Prohibition and Excise.

The petitioner questions the proceedings dated 31.10.2005 of the Prohibition and Excise Superintendent, Mahabubnagar, in rejecting his application for sending the second sample bottle to an independent agency. The shop of the petitioner was inspected on 7.3.2005 and a case has been registered in PRC No.835/2004-2005 dated 7.3.2005 on suspicion that toddy was adulterated though it was found free from Chloral Hydrate on the spot test. At the time of inspection, the petitioner himself found conducting sale of toddy and also produced copy of licence. At the time of inspection, 10 wooden crates of bottles, each containing 24 bottles, total 240 bottles each containing 650 ML size was found filled with toddy and after due procedure, three samples were drawn and one sample was sent to the Chemical Examiner of Excise Department, who opined vide his report dated 6.9.2005 that the toddy sample was adulterated with Diazepam. The petitioner made a representation on 14.10.2005 while enclosing a demand draft dated 14.10.2005 for Rs.250/- and a medical certificate issued by the doctor showing that he was hospitalized and therefore he could not make an application within the prescribed time for sending the second sample bottle to an independent agency. But the said request has been considered and rejected on the ground that the petitioner himself was present at the time of inspection and the Chemical Examiner opined that the toddy was found adulterated with Diazepam.

As per Rule 24 of A.P.Excise (Arrack and Toddy Licences General

Conditions) Rules, 1969 the licensee has to make a request within seven days from the date of drawal of the sample if he is present. In the instant case, the petitioner himself was present and no such application has been made within seven days. Therefore, I am of the opinion that the petitioner is not entitled for sending the second sample bottle to an independent agency as the samples were drawn on 7.3.2005 i.e., seven months prior to the date of his request i.e., 14.10.2005. Therefore, I do not see any infirmity or illegality in the impugned order dated 31.10.2005 in rejecting the request of the petitioner.

The writ petition is accordingly dismissed. No costs.

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(V.ESWARAIAH, J.)

8.11.2005

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